

1 Michael R. Annis (*pro hac vice*)
 Mike.Annis@huschblackwell.com
 2 Michael Klebanov (*pro hac vice*)
 Michael.Klebanov@huschblackwell.com
 3 A. James Spung (*pro hac vice*)
 James.Spung@huschblackwell.com
 4 HUSCH BLACKWELL LLP
 190 Carondelet Plaza, 6th Floor
 5 St. Louis, Missouri 63105
 314.480.1500 Telephone
 6 314.480.1505 Facsimile

7 Eric Y. Kizirian
 Eric.Kizirian@lewisbrisbois.com
 8 LEWIS BRISBOIS BISGAARD & SMITH LLP
 633 West 5th Street
 9 Los Angeles, CA 90071
 213.580.3981 Telephone
 10 213.250.7900 Facsimile

11 *Attorneys for Defendant*

12
 13 **UNITED STATES DISTRICT COURT**
 14 **CENTRAL DISTRICT OF CALIFORNIA**

15 RICHARD SOTELO, on behalf of
 16 himself and all others similarly
 17 situated,

18 *Plaintiff,*

19 v.

20 RAWLINGS SPORTING GOODS
 COMPANY, INC.,

21 *Defendant.*

Case No.: 2:18-cv-09166-GW-MAA

Hon. George H. Wu

**DECLARATION OF A. JAMES
 SPUNG IN SUPPORT OF
 DEFENDANT'S MEMORANDUM
 IN OPPOSITION TO PLAINTIFF'S
 AMENDED MOTION FOR CLASS
 CERTIFICATION AND
 MEMORANDUM IN SUPPORT OF
 MOTION AND MOTION TO
 STRIKE THE REPORT AND
 TESTIMONY OF STEFAN
 BOEDEKER**

Date: November 16, 2020

Time: 8:30 a.m.

Crtrm.: 9D

26 I, A. James Spung, hereby certify, under penalty of perjury, as follows:

28 Case No. 2:18-cv-09166-GW-MAA

Declaration of James Spung in Support of Defendant's
 Memorandum in Opposition to Plaintiff's Amended
 Motion for Class Certification and Memorandum in
 Support of Motion and Motion to Strike the Report
 and Testimony of Stefan Boedeker

1 1. I am an associate at Husch Blackwell LLP, counsel for Defendant
2 Rawlings Sporting Goods Co., Inc. (“Rawlings”) in this matter. I am a member in
3 good standing of the state bars of New York, Georgia, and Missouri and have
4 been admitted *pro hac vice* in this case.

5 2. I respectfully submit this declaration in support of Defendant’s
6 Memorandum in Opposition to Plaintiff’s Amended Motion for Class
7 Certification. Except as otherwise noted, the facts set forth in this declaration are
8 based in part upon my personal knowledge, and I would competently testify to
9 them if called upon to do so.

10 3. Attached hereto as **Exhibit A** is a true and correct copy of a
11 document produced in discovery by Rawlings and bates stamped
12 RAWLINGS015513- RAWLINGS015517. This document has been marked
13 HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY by Defendant and,
14 therefore, Defendant is filing it under seal in compliance with the provisions of
15 the Protective Order entered in this matter.

16 4. Attached hereto as **Exhibit B** is a true and correct copy of a
17 document produced in discovery by Rawlings and bates stamped
18 RAWLINGS015919- RAWLINGS015923. This document has been marked
19 HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY by Defendant and,
20 therefore, Defendant is filing it under seal in compliance with the provisions of
21 the Protective Order entered in this matter.

22 5. Attached hereto as **Exhibit C** is a true and correct copy of a
23 document produced in discovery by Rawlings and bates stamped
24 RAWLINGS015915- RAWLINGS015917. This document has been marked
25 HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY by Defendant and,
26

1 therefore, Defendant is filing it under seal in compliance with the provisions of
2 the Protective Order entered in this matter.

3 6. Attached hereto as **Exhibit D** is a true and correct copy of a
4 document produced in discovery by Rawlings and bates stamped
5 RAWLINGS001340. This document has been marked HIGHLY
6 CONFIDENTIAL – ATTORNEY’S EYES ONLY by Defendant and, therefore,
7 Defendant is filing it under seal in compliance with the provisions of the
8 Protective Order entered in this matter.

9 7. Attached hereto as **Exhibit E** is a true and correct copy of a
10 document produced in discovery by Rawlings and bates stamped
11 RAWLINGS001343. This document has been marked HIGHLY
12 CONFIDENTIAL – ATTORNEY’S EYES ONLY by Defendant and, therefore,
13 Defendant is filing it under seal in compliance with the provisions of the
14 Protective Order entered in this matter.

15 8. Attached hereto as **Exhibit F** is a true and correct copy of excerpts
16 of the deposition of Kyle Murphy, taken in this matter on December 3, 2019.
17 Certain portion of the transcript have been designated “HIGH CONFIDENTIAL-
18 ATTORNEYS EYES ONLY,” pursuant to the Protective Order entered in this
19 matter, and therefore Defendant is filing a redacted version of the transcript.

20 9. Attached hereto as **Exhibit G** is a true and correct copy of excerpts
21 of the deposition of Rebecca O’Hara, taken in this matter on December 4, 2019.
22 Certain portion of the transcript have been designated “HIGH CONFIDENTIAL-
23 ATTORNEYS EYES ONLY,” pursuant to the Protective Order entered in this
24 matter, and therefore Defendant is filing a redacted version of the transcript.

25 10. Attached hereto as **Exhibit H** is a true and correct copy of excerpts
26

1 of the deposition of Stefan Boedeker, taken in this matter on February 14, 2020.

2 11. Attached hereto as **Exhibit I** is a true and correct copy of excerpts of
3 the deposition of Dr. Thomas Maronick, taken in this matter on February 12,
4 2020.

5 12. Attached hereto as **Exhibit J** is a true and correct copy of excerpts of
6 the deposition of Dr. Bruce Isaacson, taken in this matter on April 29, 2020.

7 13. Attached hereto as **Exhibit K** is a true and correct copy of excerpts
8 of the deposition of Jeff Fiorini, taken in this matter on December 5, 2019.

9 Certain portion of the transcript have been designated "HIGH CONFIDENTIAL-
10 ATTORNEYS EYES ONLY," pursuant to the Protective Order entered in this
11 matter, and therefore Defendant is filing a redacted version of the transcript.

12 14. Attached hereto as **Exhibit L** is a true and correct copy of excerpts
13 of the deposition of Michael Zlaket, taken in this matter on March 5, 202. Certain
14 portion of the transcript have been designated "HIGH CONFIDENTIAL-
15 ATTORNEYS EYES ONLY," pursuant to the Protective Order entered in this
16 matter, and therefore Defendant is filing a redacted version of the transcript.

17 15. Attached hereto as **Exhibit M** is a true and correct copy of excerpts
18 of the deposition of Dr. Ronald T. Wilcox, taken in this matter on May 1, 2020.

19 16. Attached hereto as **Exhibit N** is a true and correct reproduction of
20 columns A-M, and all rows, of the first tab in the document produced in
21 discovery (in its native Microsoft Excel format) by Rawlings and bates stamped
22 RAWLINGS012273. This document has been marked HIGHLY
23 CONFIDENTIAL-ATTORNEY'S EYES ONLY by Defendant and, therefore
24 Defendant is filing it under seal in compliance with the provisions of the
25 Protective Order entered in this matter.
26

1 17. Attached hereto as **Exhibit O** is a summary chart prepared by
2 Rawlings depicting certain data, such as SKU numbers, sticker lengths, sticker
3 weights, drops, and specification weights, of documents filed under seal by
4 Plaintiff in Exhibit 1 to Doc. 119. The documents filed under seal by Plaintiff in
5 Exhibit 1 to Doc. 119 were each produced by Rawlings in discovery in this matter
6 and designated HIGHLY CONFIDENTIAL-ATTORNEY'S EYES ONLY by
7 Defendant. Because Exhibit O reflects, in part, proprietary and confidential
8 business information regarding these bat specifications, Rawlings is filing a
9 redacted version of Exhibit O.
10

11 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the
12 foregoing is true and correct.
13

14 Executed on October 23, 2020.

15 
16 A. James Spung
17
18
19
20
21
22
23
24
25
26